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October 17, 2019

Via ECF

Honorable Michael J. Roemer, U.S.M.J.
Western District of New York
2 Niagara Square
Buffalo, NY 14202

Re: *McCrobie v. Palisades Acquisition XVI, LLC, et al.*
Case No. 15-CV-18 (LJV)(MJR)

Dear Judge Roemer:

My office represents the plaintiff, Christopher McCrobie, in the above-referenced case.

I am writing to provide Your Honor with the proposed Case Management Order for use at the Rule 16 Conference scheduled for November 7, 2019. The parties were able to agree as to most of the deadlines in the Case Management Order; however, they were not able to agree as to the deadlines for expert discovery or motions for summary judgment, so those blanks have been left unfilled. Defendants have taken the position that those deadlines must be by November 7, 2020. Plaintiff believes that these dates cannot be scheduled until after a determination of class certification and notice is given to the class, if certification is granted.

Respectfully,

/s/ Brian L. Bromberg

Brian L. Bromberg

cc: All Counsel of Record (Via ECF)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Christopher McCrobie, individually, and on
behalf of others similarly situated,

Plaintiff,

v.
Palisades Acquisition XVI, LLC, et al.,

Defendant.s

CASE MANAGEMENT ORDER

Pursuant to the Text Order referring the above case to the undersigned for pretrial procedures and the entry of a scheduling order as provided in Fed.R.Civ.P. ("Rule") 16(b) and Local Rule 16, and a conference with counsel having been held,

IT IS ORDERED that:

1. In accordance with Section 2.1A of the Plan for Alternative Dispute Resolution,¹ this case has been referred to mediation.

not applicable--
see Dkt # 36

2. Motions to opt out of ADR shall be filed no later than _____.

3. Compliance with the mandatory disclosure requirements found in Rule 26(a)(1) will be accomplished no later than 10/31/2019 (if necessary)

4. The parties shall confer and select a Mediator, confirm the Mediator's availability, ensure that the Mediator does not have a conflict with any of the parties in the case, identify a date and time for the initial mediation session, and file a stipulation confirming their selection on the form provided by the Court no later than n/a. If the parties do not file a stipulation confirming their selection of a mediator by this deadline, the Court will select a mediator in accordance with Section 5.4(C)(2) of the ADR Plan.

5. All motions to join other parties and to amend the pleadings shall be filed no later than 2/5/2019.

6. The initial mediation session shall be held no later than n/a.

¹ A copy of the ADR Plan, a list of ADR Neutrals, and related forms and documents can be found at <http://www.nywd.uscourts.gov> or obtained from the Clerk's Office.

7. All motions to compel shall be filed no later than August 7, 2020. If a discovery dispute arises, the movant must advise the undersigned of the dispute and request a conference by submitting a letter (copying opposing counsel) to the Court as soon as possible and no later than the deadline to complete fact discovery. See Rule 16(b)(3)(B)(v). Upon review of the letter, a conference will be scheduled with the parties to attempt to resolve the issue informally. If the dispute is not resolved informally, the parties will be given the opportunity to file a formal motion. This informal discovery dispute resolution process is not expedited motion practice. Therefore, letter submissions should provide a brief overview of the issue with supporting documentation and the parties' positions. Parties do not waive arguments by failing to raise them in their letter submissions.

8. All fact discovery shall be completed no later than 8/7/2020.

9. The parties shall identify any expert witnesses and produce their reports pursuant to Fed.R.Civ.P. 26(a)(2) as follows:

(a) plaintiffs shall identify any expert witnesses and produce their reports by _____;

(b) defendants shall identify any expert witnesses and produce their reports by _____;

(c) plaintiffs shall identify any rebuttal expert witnesses and produce their reports by _____; and

(d) defendants shall identify any rebuttal expert witnesses and produce their reports by _____.

10. All expert depositions shall be completed no later than _____.

11. Pretrial dispositive motions, if any, shall be filed no later than _____. Such motions shall be made returnable before the undersigned.

12. If no pretrial dispositive motions are filed, the parties shall contact the chambers of the Hon. Lawrence J. Vilaro by _____ to schedule a trial date.

13. Mediation sessions may continue, in accordance with Section 5.11 of the ADR Plan, until n/a. The continuation of mediation sessions shall not delay or defer other dates set forth in this Case Management Order.

No extension of the above deadlines will be granted except upon written application, filed prior to the deadline, showing good cause for the extension. The parties

are reminded that “a finding of ‘good cause’ depends on the diligence of the moving party”.
Parker v. Columbia Pictures Industries, 204 F.3d 326, 340 (2d Cir. 2000).

SO ORDERED.

DATED:

Buffalo, New York

MICHAEL J. ROEMER
United States Magistrate Judge